

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**JOSEPH B. HOLLAND, JR.; and JOE
HOLLAND CHEVROLET, INC., a
West Virginia Corporation,**

Plaintiffs,

v.

Civil Action No. 2:13-cv-15487

**THE UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, *et al.*,**

Defendants.

**MOTION TO WITHDRAW PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER & PRELIMINARY INJUNCTION**

COME NOW Joseph B. Holland, Jr. and Joe Holland Chevrolet, Inc. (the "Plaintiffs"), by counsel, and state the following in support of this Motion to Withdraw Plaintiffs' Motion for Temporary Restraining Order & Preliminary Injunction:

1. On June 24, 2013, the Plaintiffs filed a Complaint and a Motion for Temporary Restraining Order & Preliminary Injunction. In their filings, the Plaintiffs asserted that the insurance plan that they provided to their employees prior to July 1, 2013, had not included coverage for certain FDA approved contraceptives with abortive effect, including Plan B pharmaceuticals and *ella* (the "Objectionable Drugs").
2. On July 1, 2013, the Court entered an Order scheduling a preliminary injunction hearing for July 23, 2013.

3. On July 5, 2013, a telephonic status conference was held. At this conference, as Plaintiffs' counsel recalls, the undersigned stated that the health insurance plan that the Plaintiffs currently provide to their employees does not include coverage of the Objectionable Drugs.

4. On July 9, 2013, the Defendants filed their response to the Plaintiff's Motion for Temporary Restraining Order & Preliminary Injunction.

5. On July 18, 2013, the Plaintiffs obtained information suggesting that certain statements made in their June 24, 2013, filings and at the July 5, 2013, status conference were incorrect. The Plaintiffs learned that their current insurance plan covers the Objectionable Drugs. Thereafter, the Plaintiffs learned that the insurance plan that they provided to their employees covered the Objectionable Drugs prior to July 1, 2013.

6. The Plaintiffs and the undersigned apologize for their incorrect statements. These statements were made in good faith, based on their understanding of the facts at the time.

7. The Plaintiffs now believe that they cannot appropriately proceed with their request for a preliminary injunction. Therefore, the Plaintiffs respectfully request that their Motion for Temporary Restraining Order & Preliminary Injunction be withdrawn and that the hearing scheduled for July 23, 2013, be cancelled.

8. The Plaintiffs anticipate filing an amended complaint and proceeding with the present litigation seeking a declaratory judgment and permanent injunction.

Respectfully submitted this 22nd day of July, 2013.

JOSEPH B. HOLLAND, JR.
JOE HOLLAND CHEVROLET, INC.

By Counsel

/s/ Allen R. Prunty

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CERTIFICATE OF SERVICE

I, Allen R. Prunty, counsel for Plaintiffs Joseph B. Holland, Jr., and Joe Holland Chevrolet, Inc., hereby certify that on the 22nd day of July, 2013, I filed the foregoing Motion to Withdraw Plaintiffs' Motion for Temporary Restraining Order & Preliminary Injunction with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to Michelle Renee Bennett and Stephen M. Horn, counsel for Defendants, and Sarah Austin Rogers, counsel for Amicus Curiae ACLU of West Virginia Foundation; and, further, I certify that I served a true and correct copy of the foregoing Motion upon the following counsel of record by United States Mail, first class postage prepaid, on the 22nd day of July, 2013:

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